

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DION K. HUMPHREY,	)	
	)	
Petitioner,	)	CASE NO. C05-1866-JCC-JPD
	)	
v.	)	
	)	
DOUG WADDINGTON,	)	ORDER DENYING PETITIONER'S
	)	MOTION FOR TRANSFER AND
	)	MOTION TO VACATE PROBATION
Respondent.	)	
_____	)	

Petitioner is a Washington state prisoner who has a petition for a writ of habeas corpus pending before the court. Petitioner has recently filed two motions: one seeking a transfer to another prison due to retaliation that petitioner alleges he is facing at his current prison (Doc. #19), and one seeking to vacate his term of probation while the court considers his habeas petition. (Doc. #22). Respondent has filed a response to the first motion. (Doc. #20). Based upon a review of petitioner's motions, respondent's response, and the balance of the record, the court hereby finds and ORDERS as follows:

(1) Petitioner's two motions seek the same relief that he previously sought and which the court denied.<sup>1</sup> See Doc. #14. Accordingly, his two recent motions should be construed as motions for reconsideration of the court's prior Order.

So construed, the motions are both untimely and devoid of any new argument or facts


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<sup>1</sup> Petitioner previously sought to be transferred due to retaliation (Doc. #12) and sought release pending consideration of his habeas petition. (Doc. #13). While he now seeks an order vacating his probation, instead of granting his outright release, the distinction is not significant because vacating petitioner's probation would essentially require the same finding by the court as granting his release. See *Land v. Deeds*, 878 F.2d 318, 319 (9<sup>th</sup> Cir. 1989).

1 that would warrant changing the court's previous Order. *See* Local Rule CR 7(h). Therefore,  
2 the motions (Doc. #19, #22) are DENIED.

3 (2) The Clerk shall send a copy of this Order to petitioner, to counsel for respondent,  
4 and to the Honorable John C. Coughenour.

5 DATED this 3rd day of March, 2006.

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8 JAMES P. DONOHUE  
9 United States Magistrate Judge  
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